(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

WRIT PETITION NO. 547 OF 2003

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri S. G. Dessai, Senior Advocate with Shri Shivan Dessai, advocate for the petitioners.

Shri R. G. Ramani, advocate for the respondent nos.3 and 4.

CORAM : SMT. NISHITA MHATRE, J.

DATE : 22nd January, 2004

P.C.:

This petition filed under Articles 226 and 227 of the Constitution of India impugns the Order closing the evidence of the petitioners on 3rd May, 2003, and adjourning the matter for the evidence of the defendants. Several adjournments were sought for by the petitioners/plaintiffs and the learned Judge has closed the evidence of the petitioners as they had exhausted their opportunities since 8th January, 2003. Shri Dessai, learned Senior Advocate for the petitioners, submits that the petitioners were in fact under the

impression that since the tenancy rights of the plaintiffs were to be decided, which proceedings are presently pending before the Administrative Tribunal, the suit would be adjourned sine die.

An application was made before the trial Court by the respondents on 13th February, 2003, to delete the issue nos.1 and 2 regarding tenancy. Accordingly, an order was passed on 2nd March, 2003, deleting issue nos.1 and 2. As this controversy regarding tenancy is not raised in the present suit, the suit may proceed.

An application made by the petitioners for an adjournment was refused by the trial Court on 3rd May, 2003. While doing so, the trial Court declared that the petitioners' evidence stands closed.

2. There is no doubt that the petitioners have been lax in

prosecuting the suit. However, in the interests of justice the plaintiffs' evidence may be continued. The Order dated 3rd May, 2003 closing the evidence of the plaintiffs is set aside. The plaintiffs may examine their witnesses. However, this Order is set aside on the condition that the plaintiffs pay to the respondents costs quantified at Rs.5,000/- (rupees five thousand only) in one set. Petition disposed of accordingly.

It is made clear that the plaintiffs will cooperate and appear before the Court on 9th February, 2004 at 10 a.m. The trial to proceed as expeditiously as possible.

SMT. NISHITA MHATRE, J.

mc.